

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GILBERTO BANNISTER,	:	
	:	
Petitioner	:	
	:	
v.	:	CIVIL NO. 02-8531
	:	
JOHN ASHCROFT, ET AL.	:	
	:	
Respondents.	:	
	:	

EXHIBITS

EXHIBIT 1

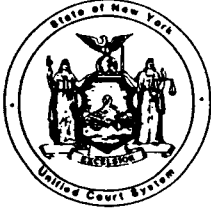
U.S. Department of Justice
Immigration and Naturalization Service

Record of Deportable/Inadmissible Alien

Family Name (CAPS) First Middle AKA: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES - SEE ATTACHED I-831 BANNISTER, Gilberto				Sex Male	Hair BLK	Eyes BRO	Cmplxn Dark
Country of Citizenship Panama	Passport Number and Country of Issue		File Number A13 856 385	Height 66"	Weight 150	Occupation student	
U.S. Address 200 E153rd Street Bronx, New York				Scars or Marks No			
Date, Place, Time, Manner of Last Entry April 25, 1964; Miami, Florida; 01M			Passenger Boarded At Panama, R.P.	F.B.I. No. 632268N8		<input checked="" type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated	
Number, Street, City, Province (State) and Country of Permanent Residence Panama City, Panama				Method of Location/Apprehension ACAP 511.2.3			
Date of Birth 6/29/48 Age: 53	Date of Action 06/06/01	Location Code NYC		(At/Near) Rikers/EMTC		Date & Hour 2/14/01 10a	
City, Province (State)/ Country of Birth Panama City, Panama	AR <input type="checkbox"/> Form (Type & No.) <input type="checkbox"/> I-551	<input type="checkbox"/> Lifted <input checked="" type="checkbox"/> Not Lifted		By e.flatt,ia		Status at Entry 01M	
NIV Issuing Post and NIV Number IV; Panama	Social Security Account Name Gilberto Miller Bannister			Status When Found I		Length of Time Illegally in U.S. Over 1 Year	
Date Visa Issued 4/6/64	Social Security Number i don't know it						
Immigration Record <i>A. Goldstein</i> DETAINDER: YES <i>Pending 6/7/01</i> PRIOR DEPORT: NO			Criminal Record CONVICTED <input checked="" type="checkbox"/>	SEE RAP SHEET. NYSID # 3787020J INVD <input type="checkbox"/> CLMD <input type="checkbox"/>			
Name, Address, and Nationality of Spouse (Maiden Name, if appropriate) C/N;				Number/Nationality minor children C/N			
Father's Name, Nationality, and Address, if Known BANNISTER, Sidney; Panama; deceased; Not LPR			Mother's Present and Maiden Names, Nationality, and Address, if Known STUART, Florence; Panama; deceased; Not LPR				
Monies Due/Property in U.S. Not in Immediate Possession <input checked="" type="checkbox"/> None Claimed <input type="checkbox"/> See Form I-43		Fingerprinted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	INS Systems Checks Completed CIS <input checked="" type="checkbox"/> NIIS <input type="checkbox"/> DACS <input type="checkbox"/> CLAIMS <input type="checkbox"/>		Charge Code Word(s) R2A3, R2B1		
Name and Address of (Last)/(Current) U.S. Employer unemployed		Type of Employment C/N	Salary \$N/A Hr.		Employed From: To: N/A		
Narrative(Outline particulars under which alien was located/apprehend. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) CRIME: Att.CSCS-3 AGGRAVATED FELON: YES INSTITUTION: Rikers/CIFM INMATE #:701-0732 <i>Donald</i> EPR DATE: 9/18/01 APPEAL PENDING: <input checked="" type="checkbox"/> NO APPEAL INFO: CLERK: <i>Dionisio</i> COURT: 1st JUD DATE: 6/6/01 MEANS: TEL <input checked="" type="checkbox"/> ; MAIL <input type="checkbox"/> ; IN PERSON <input type="checkbox"/> ; DOCKET/INDICTMENT(S) 6258-97							
SPECIAL PROGRAMS: No; SMUGGLED ALIEN: No; ASSISTANCE IN APPREHENSION: No; CONTRABAND: No; FRAUDULENT DOCUMENTS: No; FALSE CLAIMS (LPR, USC): No EXPLAIN ANY "YES": FUNDS IN POSSESSION: No; IF YES: \$ ALIEN'S INITIALS:							
US MILITARY SERVICE: No; 240A ELIGIBILITY: No; DERIVATIVE OF US CITIZENSHIP: No BECAUSE: subject's mother <i>Natziel after subject's 18th birthday date.</i> IF SUBJECT IS LPR, WERE PARENTS' FILES LOCATED AND REVIEWED OR ARE THEY RIDING W/ PRINCIPAL FILE? <input type="checkbox"/> LOCATED <input type="checkbox"/> RIDING Father's A No.: A ; Mother's A No.: A 12 041 824;							
CRIMINAL HISTORY - TOTAL ARRESTS: see rap sheet # FEL CONVICTIONS: SPECIFY: # MDM CONVICTIONS: SPECIFY: TOTAL CONVICTIONS: Rec:NTA/WA							
Alien has been advised of communication privileges (Date/Initials)				(Signature and Title of INS Official)			
Distribution:				Received: (Subject and Documents) (Report of Interview)			
1 - FILE LANGUAGE: English 1 - STATS				Officer: Mariano Hernandez, Immigration Agent on: 06/06/01 at 8:25 AM (time) Disposition: JAIL Examining Officer: <i>[Signature]</i> SSA			

EXHIBIT 2

Supreme Court
of the
State of New York



851 GRAND CONCOURSE
BRONX, NEW YORK 10451

SUPREME COURT
COUNTY OF BRONX
Criminal Division

Certificate of Disposition

Clerk's Office: 05-09-01

The People of the State of New York against...

Defendant: Gilbert Miller

Indictment #: 6258-97

I do certify that it appears from an examination of the Records on file in this office, that the above named defendant was indicted by the Grand Jury of the County of Bronx on 10-10-97, and charged with the crime of

Crim. Sale of a Controlled Substance in/near Schoolgrounds

and that thereafter the said defendant was arraigned before the Hon. Mogulescu, Justice of the Supreme Court, on 12-18-98 and pleaded GUILTY to the crime of

Attempted Criminal Sale of a Controlled Substance in the 3 degree

and that thereafter on 02-07-01 the above named defendant was sentenced to

1 year(s) NYCCI


Clerk of the Court

A TRUE EXTRACT OF THE MINUTES

EXHIBIT 3

Department of Justice
 Immigration and Naturalization Service

Notice to Appear**In removal proceedings under section 240 of the Immigration and Nationality Act**File No. A13 856 385

In the Matter of:

Respondent: BANNISTER, Gilberto currently residing at:
Eric M. Taylor Center, Building C-76 10-10 Hazen Street
East Elmhurst, New York 11370
 (Number, street, city, state and zip code) (Area code and phone number)

- ☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

SEE ATTACHED I-831 FOR ALLEGATIONS

On the basis of the forgoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

SEE ATTACHED I-831 FOR PROVISION(S) OF LAW

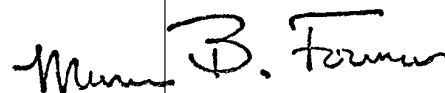
☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

TO BE CALENDARED AND NOTICE PROVIDED BY THE OFFICE OF THE IMMIGRATION JUDGE

on TO BE CALENDARED AND NOTICE at TO BE CALENDARED AND NOTICE to show why you should not be removed from the
PROVIDED BY THE OFFICE OF THE PROVIDED BY THE OFFICE OF THE United States based on the charge(s) set forth above.
IMMIGRATION JUDGE IMMIGRATION JUDGE
 (Date) (Time)



Deputy Assistant District Director for Investigations, NY NY
 (Signature and Title of Issuing Officer)
New York, New York
 (City and State)

Date: 06/07/01**See reverse for important information**

Form I-862 (Rev. 3-22-99)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(Signature of Respondent)

Before:

Date: _____

(Signature and Title of INS Officer)

Certificate of Service

This Notice to Appear was served on the respondent by me on 9/05/01, in the following manner and in compliance with section 239(a)(1)(F) of the Act:
(Date)

☒ in person ☐ by certified mail, return receipt requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organizations and attorneys which provide free legal services.

☒ The alien was provided oral notice in the

language of the time and place of his or her

hearing and of consequences of failure to appear as provided in section 240(b)(7) of the Act.

[Signature]
(Signature of Respondent if Personally Served)

[Signature]
(Signature and Title of Officer)

U. S. Department of Justice

Immigration and Naturalization Service

Continuation Page for Form I-862

Alien's Name BANNISTER, Gilberto	File Number A13 856 385	Date 06/07/01
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ALLEGATIONS:

- A 1. You are not a citizen or national of the United States;
- A 2. You are a native of Panama and a citizen of Panama;
- A 3. You were admitted to the United States at or near Miami, Florida, on or about April 25, 1964 as Lawful Permanent Resident;
- D 4. You were convicted of the crime of Attempted Criminal Sale of a Controlled Substance in the Third Degree, to wit: crack, in violation of Section 110/220.39 of the New York State Penal Law pursuant to a judgment entered on or about February 07, 2001 by the Supreme Court of the State of New York, County of the Bronx under indictment #6258-97.

CHARGES:

D Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in Section 101(a)(43)(B) and (U) of the Act.

D Section 237(a)(2)(B)(i) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act [21 U.S.C. 802]), other than a single offense involving possession for one's own use of 30 grams or less of marijuana.

AKA's: MILLER, Gilbert B.; MILLER, Gilber; MILLERE, Gilbert.


Signature 	Title Deputy Assistant District Director for Investigations, NY NY
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EXHIBIT 4

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
YORK, PENNSYLVANIA

BANNISTER, GILBERTO
C/O YORK INS
YORK PA 17402

IN THE MATTER OF
BANNISTER, GILBERTO

FILE A 13-856-385

DATE: Apr 9, 2002

UNABLE TO FORWARD - NO ADDRESS PROVIDED

ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO:

BOARD OF IMMIGRATION APPEALS
OFFICE OF THE CLERK
P.O. BOX 8530
FALLS CHURCH, VA 22041

ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT
3400 CONCORD ROAD., SUITE 2
YORK, PA 17402

OTHER: Bond memo

RJP
COURT CLERK
IMMIGRATION COURT

FF

CC: DISTRICT COUNSEL, C/O YORK PRISON
3400 CONCORD ROAD
YORK, PA, 17402

RYS

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
YORK, PENNSYLVANIA

IN THE MATTER OF Bennet, Gilbert
A # 13-856-3A-
DATE OF REDETERMINATION 1-22-02
DECISION \$7,500. -

On Behalf of Respondent

On Behalf of Service

Sandra Greene, Esq.
154 E. Market St, #202,
York, Pa 17403

BOND REDETERMINATION MEMORANDUM

In a recent decision by the United States Court of Appeals for the Third Circuit in Patel v. Zemski, 275 F.3d 299 (3rd Cir.), the court found that the mandatory custody rules set forth in section 236(c) of the Immigration and Naturalization Act were unconstitutional to the extent that aliens, and particularly lawful permanent residents, are not permitted to establish that they are not a flight risk or danger to the community. That is, even those aliens with a criminal record are entitled to a substantive bond hearing. Thus, all Board decisions relating to the mandatory custody provisions of section 236(c) have been effectively overruled by the Third Circuit.

I have duly considered the standard of review as set forth in Matter of Andrade, 19 I&N Dec. 488 (BIA 1987). In so doing, I have taken particular note of the Third Circuit's observation in Patel that "government detention violates substantive due process unless it is ordered in...special and narrow non-punitive circumstances...where a special justification...outweighs the individual's constitutionally protected interest in avoiding physical restraint," citing Zadvydas v. Davis, 121 S.Ct. 2491 at 2499 (2001).

1. General Information

Nativity _____
Citizenship _____
Age 54
Lawful permanent resident? yes 1964

2. Factors indicating dangerousness

☒ a. Criminal conviction☒ i. Referenced in Order to Show Cause or Notice to Appeara. Sentence 8 months

b. Time served _____

c. Comments _____

☐ ii. Other (Specify) 1970 - present

b. Nature of offense indicates propensity for violence

☒ c. Restraining order☒ d. Other (Specify) BLW involved in fight (Pns fight "dinner table")

3. Factors relevant to risk of flight from further proceedings:

☐ a. Family ties to the United States____ Father ____ Mother ____ Spouse ____ Children ____ Siblings ____ Grandparents
____ Aunts, Uncles, Cousins ____ Other (Specify) _____

Comments: _____

☐ b. Family ties to United States citizens____ Father ____ Mother ____ Spouse ☒ Children ☒ Siblings (6) ____ Grandparents
____ Aunts, Uncles, Cousins ____ Other (Specify) _____

Comments: _____

☐ c. Family ties to Legal Permanent Residents____ Father ____ Mother ____ Spouse ____ Children ____ Siblings ____ Grandparents
____ Aunts, Uncles, Cousins ____ Other (Specify) _____

Comments: _____

☐ d. Respondent's length of stay in the United States _____☐ e. Respondent's time of residence in community of residence _____☒ f. Employment history

Occupation (primary) _____ (secondary) _____

Current employer _____

☒ Approximate length of time with current employer 20 years

Previous employer _____

Approximate length of time with previous employer _____

Job skills easily transferable to another community? _____

___ g. Past immigration violations

___ Came into the United States without inspection or admission

___ Visa overstay

___ Previously excluded, deported, or removed

___ Other (Specify) _____

☒ h. Prior record at criminal or immigration proceedings

☒ Criminal proceedings

☒ Bench warrant(s) issued *numerous*

___ Contempt citations

___ Probation or parole violations

___ Other (Specify) _____

___ Immigration proceedings

___ In absentia order

___ Failure to depart after ordered deported or removed

___ Other (Specify) _____

___ i. Nature of criminal and/or immigration violations demonstrates

___ Deceitful character

___ Lack of respect for authority

___ Other (Specify) _____

___ j. Already under supervision of state or federal authority

___ Probation

___ Parole

___ Other (Specify) _____

☒ k. Apparent eligibility for relief from removal

___ Cancellation of removal or suspension of deportation

___ Adjustment of status

___ Asylum, Withholding of Removal, or Convention against Torture

☒ None

___ Other (Specify) _____

4. Additional Comments

Considered alien bond trip

*- former cocaine addict - got job
due to it.*

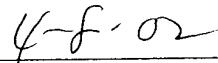
*consider long term residence
in US*

Accordingly, based on the above noted factors, the Court finds that the Respondent presents a threat to the community or a significant flight risk and should be **detained** in the custody of the Immigration and Naturalization Service **without bond**.

Accordingly, based on the above noted factors, the Court finds that the Respondent presents a risk of flight and that a bond in the amount of \$7,500 is necessary to ensure the Respondent's presence at further immigration proceedings.



Immigration Judge



Date

EXHIBIT 5

IMMIGRATION COURT
3434 CONCORD ROAD
YORK, PA 17402

In the Matter of

Case No.: A13-856-385

BANNISTER, GILBERTO
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 2-20-02.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to
or in the alternative to
- ☐ Respondent's application for voluntary departure was denied and
respondent was ordered removed to
alternative to
- ☐ Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to
- ☐ Respondent's application for asylum was ☐ granted ☐ denied
☐ withdrawn.
- ☐ Respondent's application for withholding of removal was ☐ granted
☐ denied ☐ withdrawn.
- ☐ Respondent's application for cancellation of removal under section
240A(a) was ☐ granted ☐ denied ☐ withdrawn.
- ☐ Respondent's application for cancellation of removal was ☐ granted
under section 240A(b)(1) ☐ granted under section 240A(b)(2)
☐ denied ☐ withdrawn. If granted, it was ordered that the
respondent be issued all appropriate documents necessary to give
effect to this order.
- ☐ Respondent's application for a waiver under section _____ of the INA was
☐ granted ☐ denied ☐ withdrawn or ☐ other.
- ☐ Respondent's application for adjustment of status under section _____
of the INA was ☐ granted ☐ denied ☐ withdrawn. If granted, it
was ordered that respondent be issued all appropriate documents necessary
to give effect to this order.
- ☐ Respondent's status was rescinded under section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____.
- ☐ As a condition of admission, respondent is to post a \$ _____ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper
notice.
- ☐ Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.
- ☐ Other: _____

Date:

Appeal: Waived/Reserved Appeal Due By:

WALTER A. DURLING
Immigration Judge

March 22, 2002

EXHIBIT 6

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A13 856 385 - York

Date: JUN 27 2002

In re: GILBERTO BANNISTER

IN BOND PROCEEDINGS

APPEAL

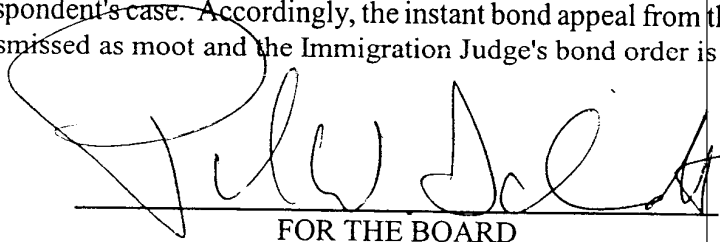
ON BEHALF OF RESPONDENT: Sandra Greene, Esquire

ON BEHALF OF SERVICE: Jeffrey T. Bubier
Assistant District Counsel

APPLICATION: Change in custody status

ORDER:

PER CURIAM. This is an appeal by the Immigration and Naturalization Service from an Immigration Judge's January 22, 2002, bond order. We note, however, that an Immigration Judge has issued an order of removal against the respondent. The Board has no record that an appeal was taken from that removal order. Thus, there is now an administratively final order of removal. *See* 8 C.F.R. § 241.31. The authority of an Immigration Judge to set bond conditions ceases at the entry of a final administrative order. *See* 8 C.F.R. § 236.1(d)(1). This Board's authority to set bond conditions on appeal from an Immigration Judge's order derives from the Immigration Judge's underlying authority to redetermine conditions of custody. At this time, neither an Immigration Judge nor this Board has authority to set bond conditions because a final order of removal has been entered in the respondent's case. Accordingly, the instant bond appeal from the Immigration Judge's bond order is dismissed as moot and the Immigration Judge's bond order is vacated as moot.



FOR THE BOARD

EXHIBIT 7

No. 1115-0018

FEE STAMP

or mail this application to:
IMMIGRATION AND NATURALIZATION SERVICE

Date _____

or type) GILBERTO BANNISTER

(Full, True Name, without Abbreviations)

nee _____

(Maiden name, if any)

B.C.P. CELL A127 - 1287 COUNTY WELFARE ROAD

(Apartment number, Street address, and if appropriate, "in care of")

LEESPORT, PENNSYLVANIA, 19533

(City) (Country) (State) (ZIP Code)

(Telephone Number)

ALIEN REGISTRATION

No. A13-856-385

INSTRUCTIONS. BE SURE YOU UNDERSTAND EACH QUESTION BEFORE YOU ANSWER IT.)

I apply to the Commissioner of Immigration and Naturalization for a certificate showing that I am a citizen of the United States of America.

I was born in PANAMA CITY - PANAMA

(City) (State or Country)

on JUNE 30, 1948

(Month) (Day) (Year)

personal description is: Sex MALE complexion BLACK color of eyes BROWN color of hair GRAY height 5' feet 6" inches;

182 pounds; visible distinctive marks SCAR ON RIGHT SIDE OF CHEST

status: ☒ Single; ☐ Married; ☐ Divorced; ☐ Widower.

I lived in the United States at BROOKLYN/NEW YORK

(City and State)

on

?? 1965

(Month) (Day) (Year)

My name GILBERTO BANNISTERby means of AIR PLANE

(Name of ship or other means of arrival)

U.S. Passport No. NONE issued to me at NONE

on

(Month) (Day) (Year)

an Immigrant Visa. ☒ Other (specify) LEGAL PERMANENT RESIDENT - GREEN CARD

FILL IN THIS BLOCK ONLY IF YOU ARRIVED IN THE UNITED STATES BEFORE JULY 1, 1924.

My last permanent foreign residence was _____

(City)

(Country)

I took the ship or other conveyance to the United States at _____

(City)

(Country)

I was coming to _____

(Name of person in the United States)

at _____

(City and State where this person was living)

I traveled to the United States with _____

(Names of passengers or relatives with whom you traveled, and their relationship to you, if any)

Have you been out of the United States since you first arrived? ☐ Yes ☒ No: If "Yes" fill in the following information for every absence.

DEPARTED	DATE RETURNED	Name Of Airlines Or Other Means Used To Return To The United States	Port Of Return To The United States

I ☐ have ☒ have not filed a petition for naturalization. (If "have" attach full explanation.)

APPLICANT. - Do not write between the double lines below. Continue on next page.

ARRIVAL RECORDS EXAMINED

IN _____
 Date _____
 Place _____
 Manner _____
 Marital status _____

ARRIVAL RECORD FOUND

Place _____ Date _____
 Name _____
 Manner _____
 Marital status _____ Age _____

(Signature of person making entry)

claim United States citizenship (through my check whichever applicable) ☐ father; ☒ mother; ☐ both parents;

adoptive parent(s) ☐ husband

My father's name is SYDNEY BANNISTER

; he was born on ??????????????

ANAMA CITY

PANAMA

(Month) (Day) (Year)

; and resides at

PANAMA

(Street address, city and State or country. If dead, write

He became a citizen of the United States by ☐ birth; ☐ naturalization on

(Month) (Day) (Year)

and date of death)

(Name of court, city and State) Certificate of Naturalization No. _____

through his parent(s), and _____ issued Certificate of Citizenship No. A or AA _____

(was) (was not)

own) His former Alien Registration No. was _____

lost United States citizenship. (If citizenship lost, attach full explanation.)

(has) (has not)

resided in the United States from _____ to _____; from _____ to _____; from _____ to _____

(Year)

(Year)

(Year)

(Year)

(Year)

(Year)

to _____; from _____ to _____; I am the child of his _____ marriage.

(Year)

(Year)

(Year)

(Year)

(Year)

(1st, 2d, 3d, etc.)

My mother's present name is FLORENCE STEWART

; her maiden name was MILLER

she was born on ????????????????

(Month) (Day) (Year)

at NEW YORK CITY OR CADMAN PLAZA BKLYN

(City) (State or country)

she resides

????????????????

(Street address, city, and State or country. If dead write "dead" and date of death.)

She became a citizen of the

United States by ☒ birth; ☐ naturalization under the name of FLORENCE STEWART

????????????????

(Month) (Day) (Year)

in the

NEW YORK CITY OF IN BROOKLYN CADMAN PLAZA

(Name of court, city, and State)

date of Naturalization No. _____; ☐ through her parent(s), and _____ issued Certificate of

(was) (was not)

ship No. A or AA ???????????????? (If known) Her former Alien Registration No. was ????????????????

lost United States citizenship. (If citizenship lost, attach full explanation.)

(has) (has not)

resided in the United States from _____ to _____; from _____ to _____; from _____ to _____

(Year)

(Year)

(Year)

(Year)

(Year)

(Year)

to _____; from _____ to _____; I am the child of her _____ marriage.

(Year)

(Year)

(Year)

(Year)

(1st, 2d, 3d, etc.)

My mother and my father were married to each other on

(Month) (Day) (Year)

at

(City) (State or country)

claim is through adoptive parent(s):

Adopted on 1965 Or 1966

(Month) (Day) (Year)

in the

????????????????????KINGS COUNTY?

(Name of Court)

??BKLYN N.Y.

(City or town) (State) (Country)

by my

STEP FATHER

(mother, father, parents)

who were ~~not~~ United States citizens at that time.

My ???????????????? served in the Armed Forces of the United States from _____ to _____ and _____

(father) (mother)

(Date)

(Date)

(was) (was not)

ably discharged.

lost my United States citizenship. (If citizenship lost, attach full explanation.)

(have) (have not)

Submit the following documents with this application:

Nature of Document

Names of Persons Concerned

Fill in this block if your brother, sister, mother or father is applying for a certificate of citizenship.

NAME OF RELATIVE	RELATIONSHIP	DATE OF BIRTH	WHEN APPLICABLE, SUGGESTED	CERTIFICATE NO. AND FILE NO., IF KNOWN AND LOCATION OF OFFICE
LORENCE STEWART	MOTHER	??????	??760s	

Fill in this block only if you are now or ever have been a married woman. I have been married _____ (1, 2, 3, etc.) _____ time(s), as follows:

DATE MARRIED	NAME OF HUSBAND	CITIZENSHIP OF HUSBAND	IF MARRIAGE HAS BEEN TERMINATED:	
			Date Marriage Ended	How Marriage Ended (Death or Divorce)

Fill in this block only if you claim citizenship through a husband. (Marriage must have occurred prior to September 22, 1922.)

Name of citizen husband _____ (Give full and complete name) ; he was born on _____ (Month) (Day) (Year) _____ (City) (State or country) ; and resides at _____ (Street address, city, and State or country. If dead, write "dead" and date of death). He became a citizen of the United States by ☐ birth; ☐ naturalization on _____ (Month) (Day) (Year) in the _____ (Name of court, city, and State) Certificate of Naturalization No. _____ ☐ through his parent(s), and _____ (was) (was not) issued Certificate of Citizenship No. A or AA _____ He _____ (has) (has not) since lost United States citizenship. (If citizenship lost, attach full explanation.) of the _____ race. Before my marriage to him, he was married _____ (1, 2, 3, etc.) _____ time(s), as follows:

DATE MARRIED	NAME OF WIFE	IF MARRIAGE HAS BEEN TERMINATED:	
		Date Marriage Ended	How Marriage Ended (Death or Divorce)

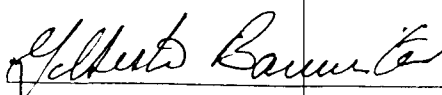
Fill in this block only if you claim citizenship through your stepfather. (Applicable only if mother married U.S. Citizen prior to September 22, 1922.)

Full name of my stepfather is **HUDSON STEWART** ; he was born on _____ at **N.Y.C** (City) (State or country) resides at **70 Rogers Avenue Bklyn, New York** (Street address, city, and State or country. If dead, write "dead" and date of death) He became a citizen of the United States by ☒ birth; naturalization on _____ in the _____ (Name of court, city and State) Certificate of Naturalization No. _____ through his parent(s), and _____ (was) (was not) issued Certificate of Citizenship No. A or AA _____ He _____ (has) (has not) since lost United States citizenship. (If citizenship lost, attach full explanation.) He and my mother were married to each other on _____ at _____ (Month) (Day) (Year) (City and State or Country) My mother is of the _____ race. She _____ (was) (was not) issued Certificate of Citizenship No. A _____ (City) (State or Country) Before my mother marrying my mother, my stepfather was married _____ (1, 2, 3, etc.) _____ time(s), as follows:

DATE MARRIED	NAME OF WIFE	IF MARRIAGE HAS BEEN TERMINATED:	
		Date Marriage Ended	How Marriage Ended (Death or Divorce)

I **HAVE NOT** ~~XXXX~~ previously applied for a certificate of citizenship on _____ (Date) at _____ (Office)

Signature of person preparing form. If other than applicant, I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.
 NAME: _____
 ADDRESS: _____
 DATE: _____

(SIGN HERE) 
 (Signature of applicant or parent or guardian)

UNITED STATES DEPARTMENT OF JUSTICE
 Immigration and Naturalization Service
 20 West Broadway
 New York, New York 10007

File No. A13 856 385Date May 6th, 1964Index Unit am

Gilberto BANNISTER
 c/o Mrs. Florence Stewart
 79 Rogers Avenue
 Brooklyn 16, New York

Dear Sir:

In connection with the ~~enclosed application~~ issuance of your Alien Identification Card it is necessary that you comply with the items in this letter checked ☒ in red. THEN RETURN THIS LETTER with the requested information, documents, and forms:

- ☐ Unless you furnish the requested information or document(s) checked ☒, it will be necessary to recommend to the court that your petition for naturalization be denied for lack of prosecution.
- ☐
- ☐ Your application shows you do not have the required knowledge of English. Have someone read the attached Form M-132 to you. Resubmit your application when you have learned to read and write and speak English and are ready to be examined.
- ☐ Complete or comply with those items on the application where checked ☒ in red.
- ☐ The application is obsolete. Complete and return the enclosed new application.
- ☐ Send money order or check for \$_____ made payable to the "Immigration and Naturalization Service, Department of Justice". Do not send cash or postage stamps.
- ☒ Submit 2 identical, unglazed photographs, 2 by 2 inches, on thin paper, light background showing front view without hat, distance from top of head to point of chin approximately 1 1/4 inches. They may be in natural color or in black and white, but black and white photographs which have been tinted or otherwise colored are not acceptable. Machine-made photographs are not acceptable.
- ☐ Sign full name in ink on front of all photographs in the margin and not across the face or clothing.
- ☐ Give your Alien Registration number _____
- ☐ You must reside in your State for 6 months before you can apply for naturalization. Resubmit your application after _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Gerhardt Bunnister

v.

John Askeroff, et al.

CIVIL ACTION

NO. *02cv3531*

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. (☒)
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. ()

FILED NOV 18 2002

11/18/02
Date

[Signature]
[Redacted]
[Redacted]

EXHIBIT 8



U.S. Department of Justice
Immigration and Naturalization Service
Philadelphia District
1600 Callowhill Street
Philadelphia, PA 19130

Addressee:
Gilberto Bannister
C/O INS Berks County Prison
B.C. P Cell A127
1287 County Welfare Road
Leesport, PA 19533

Refer to this file number A-13 856 385

Date: November 15, 2002

DECISION

It is ordered that your Application for Certificate of Citizenship, Form N-600, be denied for the reasons explained in the attachment. Please see the attachment.

You may, if you wish, appeal this decision. You must submit such an appeal this office with the filing fee of \$110.00. If you do not file an appeal within the time allowed, this decision is final. Appeal in your case may be made to:

The Administrative Appeals Unit (AAU) in Washington, D.C. It must reach this office within 30 calendar days from the date this notice is served (33 days if this notice is mailed).

Do NOT send an appeal directly to the AAU. Please direct any questions you may have to the Immigration and Naturalization Service Office nearest your residence.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth John Elwood".

Kenneth John Elwood
District Director

Enclosure(s): Form I-290B

CC: Your Attorney (X)

Form I-292

Attachment to Form I-292

A-13 856 385

Reference is made to the Application for Certificate of Citizenship, Form N-600, filed by you on or around September 10, 2002 in accordance with Section 321 of the Immigration and Nationality Act as amended.

Section 321 (a) of the Act determines in part that

A child born outside of the United States ... becomes a citizen of the United States upon the fulfillment of the following conditions:

- (1) The naturalization of both parents;
- (2) The naturalization of the surviving parent if one of the parents is deceased, or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if
- (4) Such naturalization takes place while the child is under the age of eighteen years; and
- (5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection ... or thereafter begins to reside permanently in the United States while under the age of eighteen years.

Your Service file confirms that you were born in Panama on June 30, 1948. On April 25, 1964 you were admitted to the United States as a legal permanent resident. A birth certificate submitted in connection with your immigration lists your mother as Ms. Florencia Miller, and your father as Mr. Sidney Bannister. Both your parents are identified as citizens and residents of Panama. Your parents never became married to each other. On July 12, 1962 your mother married Mr. Hudson Stewart, and she testified that this was her first marriage. Mr. Stewart, your step-father, was also born in Panama.

On August 02, 1966 your mother became a naturalized citizen of the United States. At that time you had already reached your eighteenth birth date. There is no evidence that your biological father ever acquired United States citizenship. On May 25, 1966 your mother testified that Mr. Sidney Bannister still resided in Panama. You have claimed in your application that you derived citizenship from your step-father. Your step-father may or may not have become a citizen of this country. However, there is no provision in the law allowing a step-parent to confer citizenship upon a step-child.

Inasmuch as none of your parents became United States citizens before you reached your eighteenth birth date, you did not derive United States citizenship at any time.

ORDER: The Application for Certificate of Citizenship, Form N-600, filed by you on or around September 10, 2002, is hereby denied.

EXHIBIT 9

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:02-cv-04047-JCJ**

BANNISTER v. I.N.S.

Assigned to: HONORABLE J. CURTIS JOYNER

Referred to:

Demand: \$

Lead Docket: None

Related Cases: 2:02-cv-08531-JCJ

Case in other court: None

Cause: 28:2241 Petition for Writ of Habeas Corpus (federal)

Date Filed: 06/21/02

Jury Demand: None

Nature of Suit: 530 Habeas Corpus
(General)

Jurisdiction: Federal Question

Petitioner

GILBERT BANNISTER

represented by **GILBERT BANNISTER**
BERKS COUNTY PRISON
LEESPORT, PA
PRO SE

V.

Respondent

I.N.S., *ET. AL.*

Filing Date	#	Docket Text
06/21/2002	1	PETITION for Writ of Habeas Corpus , filed by GILBERT BANNISTER [pet].(ss,) (Entered: 06/25/2002)
06/28/2002	2	ORDER THAT THE CLERK SHALL PROMPTLY FURNISH PETITIONER WITH THE IN FORMA PAUPERIS FORM AND PETITIONER SHALL EITHER COMPLETE AND RETURN IT TO THE CLERK OF COURT WITHIN THIRTY DAYS OR IN THE ALTERNATIVE TENDER THE REQUIRED \$5.00 FILING FEE TO THE CLERK OF COURT WITHIN THIRTY DAYS OR ELSE THIS ACTION WILL BE DISMISSED.. SIGNED BY JUDGE J. CURTIS JOYNER ON 6/28/02. 7/1/02 ENTERED AND COPIES MAILED AND FAXED.(lvj,) (Entered: 07/01/2002)
08/13/2002	<u>3</u>	ORDER THAT THIS CIVIL ACTION IS DISMISSED WITHOUT PREJUDICE.. SIGNED BY JUDGE J. CURTIS JOYNER ON 8/13/02. 8/14/02 ENTERED AND COPIES MAILED.(lvj,) (Entered: 08/14/2002)
09/23/2002	4	MOTION FOR PERMISSION TO PROCEED IN THE DISTRICT COURT AND/OR ON APPEAL IN FORMA PAUPERIS IN HABEAS CORPUS FILED BY GILBERT BANNISTER..(lvj,) (Entered: 09/25/2002)
11/22/2002	<u>5</u>	ORDER THAT THE MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS IS GRANTED AND PETITIONER IS GIVEN LEAVE TO PROCEED IN THIS ACTION IN FORMA PAUPERIS. IT IS FURTHER ORDERED THAT THE CLERK OF COURT IS DIRECTED TO SERVE A COPY OF THE PETITION FOR HABEAS COPRUS UPON THE NAMED RESPONDENT.. SIGNED BY JUDGE J. CURTIS JOYNER ON 11/22/02.11/25/02 ENTERED AND COPIES MAILED. (lvj,) (Entered: 11/25/2002)

PACER Service Center**Transaction Receipt**

01/20/2003 11:52:34

PACER Login:	us5102	Client Code:	
Description:	Docket Report	Case Number:	2:02-cv-04047-JCJ
Billable Pages:	1	Cost:	0.07